



**Billing Code: 4210-67**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**[Docket No. FR-5732-N-01]**

**Section 184 Indian Housing Loan Guarantee Program  
Increase in the Loan Guarantee Fee**

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The Section 184 Indian Housing Loan Guarantee program (Section 184 program) provides access to sources of private financing for Indian families, Indian housing authorities, and Indian tribes that otherwise could not acquire housing financing because of the unique legal status of Indian land, by guaranteeing loans to eligible persons and entities. Over the last 5 years, the Section 184 program has doubled the number of loans and eligible families being assisted by the program. For HUD to continue to meet the increasing demand for participation in this program, HUD is exercising its new authority to increase the loan guarantee fee to 1.5 percent of the principal obligation from the current rate of 1 percent.

**DATES:** Effective Date: [Insert date 30 days from the date of publication in the Federal Register or April 1, 2014, whichever is later].

**FOR FURTHER INFORMATION CONTACT:** Rodger Boyd, Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 4126, Washington, DC 20410; telephone number 202-401-7914 (this is not a toll-free number). Persons with hearing or speech disabilities may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Section 184 of the Housing and Community Development Act of 1992 (Public Law 102–550, approved October 28, 1992), as amended by the Native American Housing Assistance and Self-Determination Act of 1996 (Public Law 104-330, approved October 26, 1996), established the Section 184 program to provide access to sources of private financing to Indian families, Indian housing authorities, and Indian tribes that otherwise could not acquire housing financing because of the unique legal status of Indian land. Because title to trust or restricted land is inalienable, title cannot be conveyed to eligible Section 184 program borrowers. As a consequence, financial institutions cannot utilize the land as security in mortgage lending transactions. The Section 184 program addresses obstacles to mortgage financing on trust land and in other Indian and Alaska Native areas by giving HUD the authority to guarantee loans to eligible persons and entities to construct, acquire, refinance, or rehabilitate one-to-four family dwellings in these areas.

The Section 184 Loan Guarantee Fund (the Fund) receives annual appropriations to cover the cost of the program. Guarantee fees and any other amounts, claims, notes, mortgages, contracts, and property acquired by the Secretary under the Section 184 program reduce the amount of appropriations needed to support the program, and together with appropriations are used to fulfill obligations of the Secretary with respect to the loans guaranteed under this section.

In recent years, rapidly growing demand has increased the need for subsidy appropriations to support new loan guarantees. HUD issued loan guarantee commitments for \$307 million in 2008, \$508 million in 2009, \$552 million in 2010, \$531 million in 2011, \$797

million in 2012, and \$648 million in 2013.<sup>1</sup> Additionally, expenses have increased for acquisitions, insurance, and other program expenses, and HUD expects higher losses now that the Fund has guaranteed over \$3.5 billion in current loans. Since section 184(d) of the Housing and Community Development Act of 1992 limited the guarantee fee to a maximum of 1 percent of the principal obligation, HUD's guarantee fee has been set at 1 percent. (See 24 CFR 1005.109.) The 2013 Consolidated and Further Continuing Appropriations Act (Public Law 113-6, approved March 26, 2013) amended section 184(d) of the Housing and Community Development Act of 1992, by authorizing the Secretary to increase the fee for the guarantee of loans up to 3 percent of the principal obligation of the loan and to establish the amount of the fee by publishing a notice in the Federal Register. Separate from this notice and published elsewhere in today's Federal Register, HUD updates its existing regulations to reflect the new authority.

## **II. New Loan Guarantee Fee**

To meet the growing demand for participation in the Section 184 program, HUD is increasing the loan guarantee fee paid by borrowers to 1.5 percent of the principal obligation. In the absence of a loan guarantee fee increase, if the Section 184 program received appropriations of \$6 million for Fiscal Year (FY) 2014, that funding would support only about \$650 million in new loan guarantee commitments. Considering the increasing demand for the program, this may force HUD to limit access to the program for some otherwise eligible program participants. In addition, if HUD were to limit access to the loan guarantee program, HUD predicts that some lenders currently participating in the Section 184 program may choose to no longer partner with HUD to provide mortgage lending through the Section 184 program. Without those lenders, the

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<sup>1</sup> The volume in 2013 does not represent program demand because during FY 2013, the program was shut down for 8 weeks and did not guarantee refinances, which typically accounts for 30 percent of the Section 184 program's business.

Section 184 program would be unable to meet the demand for mortgage lending on trust land and in Indian and Alaska Native areas and tribal lands, potentially causing a further reduction in program activity.

By raising the loan guarantee fee paid by borrowers to 1.5 percent of the principal obligation, the credit subsidy rate will go down, and HUD expects the program will be able to guarantee the volume of loans expected in FY 2014. In addition, HUD could resume refinancing off of trust lands in FY 2014, which was temporarily halted for all of FY 2013. Raising the loan guarantee fee paid by borrowers to 1.5 percent of the principal obligation would cost the average borrower (who has a \$175,000 mortgage) an extra \$4 a month on the borrower's monthly payment. Even with these additional costs to borrowers, the Section 184 program will still be affordable. While paying an increased fee may be a hardship for some borrowers, HUD does not believe that the extra cost is cost prohibitive and believes it will have a limited impact on the demand for the program. However, the increased fee will allow HUD to continue to meet the demand for new mortgage lending transactions so that more Indian and Alaska Native families have the opportunity for homeownership.<sup>2</sup>

This notice places the new loan guarantee fee of 1.5 percent of the principal obligation of the loan in effect for all new case numbers assigned on or after **[Insert date 30 days from the date of publication in the Federal Register or April 1, 2014, whichever is later]**.

### **III. Tribal Consultation**

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<sup>2</sup> In its Congressional Justifications for HUD's FY 2014 budget, HUD announced that it would pursue a fee increase to 1.5 percent in the Section 184 program. Please see page M-5 of HUD's Congressional Justification for the "Indian Housing Loan Guarantee Fund (Section 184)" at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/cfo/reports/2014/main\\_toc](http://portal.hud.gov/hudportal/HUD?src=/program_offices/cfo/reports/2014/main_toc).

HUD's policy is to consult with Indian tribes early in the process on matters that have tribal implications. Accordingly, on September 6, 2013, HUD sent letters to all tribal leaders participating in the Section 184 program, informing them of the nature of the forthcoming notice

and soliciting comments. A summary of comments received and responses can be found on HUD's website at

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/ih/homeownership/184](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/homeownership/184).

#### **IV. Environmental Impact**

This notice involves the establishment of a rate or cost determination that does not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (U.S.C. 4321).

Dated: February 21, 2014

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Sandra B. Henriquez,  
Assistant Secretary for Public  
and Indian Housing

**[FR-5732-N-01]**

**[FR Doc. 2014-04513 Filed 03/04/2014 at 8:45 am; Publication Date: 03/05/2014]**